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PATENT
P55501

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

En-Seung KANG *et al.*

Serial No.: 09/217,932

Examiner: K. Zand

Filed: 22 December 1998

Art Unit: 2132

For: THE DIGITAL CONTENT ENCRYPTION APPARATUS AND METHOD
THEREOF

ELECTION

The Honorable Commissioner
of Patents & Trademarks
Washington, D.C. 20231

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Sir:

In response to the requirement for Restriction mailed 23 July 2002 (Paper No. 5) requiring applicant to elect between the inventions of Group I, covered by claims 1-19 and 37-44 drawn to an apparatus and method of copy protection by storing key information classified in Class 713, subclass 193, Group II covered by claims 20-33 drawn to an apparatus and method of copy protection using packet header classified in class 713 subclass 160, Group III covered by claims 34-35 and 52-53 drawn to an apparatus and method of user access classified in class 713 subclass 182, Group IV covered by claim 36 drawn to a method of authenticating through registration authority classified in class 713 subclass 155, Group V covered by claims 45-61 and 66-69 drawn to a method of cryptography using code signal classified in class 380 subclass 239, Group VI covered by claims 54-56 drawn to a method of key distribution classified in class 380 subclass 278, and Group VII covered

by claims 57-65 drawn to a method of copy prevention and protection classified in class 380 subclass 201, applicant provisionally elects, with traverse, the inventions of Group II, claims 20-33.

Traversal is on the grounds that the Examiner errs by stating that the inventions are subcombinations disclosed as usable together, by stating that each has separate utility, and has improperly classified the various claims in different classes and subclasses or in the incorrect classes and subclasses.

Group I calls for a *copyright protection protocol having a header and being formed by adding the encrypted digital contents to the header.*

The Examiner has indicated that claims drawn to an apparatus and method of copy protection using a header are to be classified in class 713 subclass 160. See the classification of Group II, claims 20-33, which call for *copyright protection protocol including a header and digital contents, said digital contents being encrypted.*

The Examiner errs by stating that Group I has separate utility "such as data protection by storing," whereas Group II has separate utility "such as data protection using packet header." Neither indication of separate utility is tenable, because the data protection is due to the encryption of the digital contents, and both Group I and Group II perform such encryption, both transmit the encrypted data in a header of a copyright protection protocol classifiable in class 713 subclass 160 (Subject matter wherein the data transfer uses an integral unit including information indicating that the associated data is encrypted or signed.) and both decrypt the copyright protection protocol according

to the data in the header.

Accordingly, the restriction/election requirement between the claims of Groups I and II should be withdrawn, because Groups I and II do not have separate utility and should be commonly classified.

Additionally, the Examiner errs with respect to the indication of separate utility for Group V in stating that Group V has separate utility "such as control signal protocol" classified in class 380 subclass 239. This subclass is indented under 380/210: Video electric signal modification (e.g., scrambling): Subject matter wherein a video electric signal is made unintelligible by varying at least one of its parameters. Subclass 239 further modifies subclass 210 by requiring subject matter wherein a control coding signal modifying the video electric signal has itself been made unintelligible. No claim of Group V calls for the scrambling of a video electric signal nor utilizes a control coding signal to modify a video electric signal.

Accordingly, without a proper showing that this Group is properly classified in class 380, then the Examiner fails to provide a *prima facie* showing that claims of Group V are restrictable from Groups I and II. Therefore Group V should be examined with Groups I and II.

Also, the Examiner errs with respect to Group VII stating that this group has separate utility "such as copy protection and prevention" classified in class 380 subclass 201. This subclass is indented under 380/200, *i.e.*, VIDEO CRYPTOGRAPHY: Subject matter wherein a video signal representative of a time varying object or image is made unintelligible. Subclass 201 includes subject

matter which prevents re-recording of a stored picture signal representative of a time varying object or image. There is no video claimed in the claims of Group VII. Therefore, the claims are not classifiable in class 380 subclass 201.

Accordingly, without a proper showing that this Group is properly classified in class 380, then the Examiner fails to provide a *prima facie* showing that claims of Group VII are restrictable from Groups I and II. Therefore Group VII should be examined with Groups I and II.

Further, as stipulated in MPEP §803, if the search can be made without serious burden, the examiner must examine it on the merits. The examiner has not alleged any serious burden, and there appears to be no burden because the claims of Groups III and IV are classified in class 713 and contain subject matter found in the elected claims, therefore the examiner must examine the entire application.

In view of the forgoing election, this response is believed to be a complete response to the requirement for restriction. Should questions remain unresolved, the Examiner is requested to telephone the Applicant's attorney.

The Examiner is respectfully requested to reconsider the application and withdraw the restriction in view of the above amendments and/or remarks.

A fee of \$400.00 is incurred by filing of a petition for two-month extension of time.

Applicant's check drawn to the order of the Commissioner accompanies this Amendment. Should the check become lost or detached from the file, the Commissioner is authorized to charge Deposit Account No. 02-4943 and advise the undersigned attorney accordingly. Also, should the enclosed check be deemed to be deficient or excessive in payment, the Commissioner is authorized to charge or credit our deposit account and notify the undersigned attorney of any such transaction.

Respectfully submitted,



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